

VILLAGE OF FONTANA ON GENEVA LAKE
WALWORTH COUNTY, WISCONSIN
(Official Minutes)

MONTHLY MEETING of the VILLAGE OF FONTANA PLAN COMMISSION
and JOINT SESSION with JOINT EXTRATERRITORIAL ZONING COMMITTEE
(Village of Fontana, Town of Linn, Town of Walworth)
Monday, July 29, 2013

Chairman George Spadoni called the monthly meeting of the Plan Commission to order and ETZ Committee Chairman Micki O'Connell called the Joint Extraterritorial Zoning Committee meeting to order at 5:30 pm in the Village Hall, 175 Valley View Drive, Fontana, Wisconsin.

Plan Commissioners present: Roll call: Trustee Spadoni, Cynthia Nickolai, Micki O'Connell, President Arvid Petersen, Sarah Lobdell, Scott Vilona

Plan Commissioner absent: F.J. Frazier

ETZ Committee members present: Village of Fontana representatives O'Connell, Lobdell and Vilona; Town of Walworth representatives Ken Magowan and Jim van Dreser

ETZ Committee members absent: Town of Walworth representative Thomas Rohleder; Town of Linn representatives Larry Aasen, William Bentley and John Zils

Also present: Jade Bolack, Jim Connor, Administrator/Treasurer Kelly Hayden, Merilee Holst, Clerk Dennis Martin, Assistant Zoning Administrator Bridget McCarthy, Jerry Mortier, Building Inspector/Zoning Administrator Ron Nyman, Trustee Rick Pappas, Mike Slavney, Dale Thorpe

Visitors Heard

Merilee Holst stated that she would like to read the following letter into the record on behalf of Rich Morris, 1040 South Lakeshore Drive: "Unfortunately a family commitment will keep me from attending tonight's meeting. I want to thank you in absentia for the 'Village Board Request to Review Previous Information on McMansion Zoning Ordinances' agenda item. I would be very appreciative to be apprised of the consideration you have made. My family and many neighbors feel very strongly that given the room for interpretation in the current code, to err on the side of moderation should be strongly considered. These properties, no matter how large in acreage, live much smaller as narrow slices of land. A garage as scaled in the drawings is clearly counter to the intention of the zoning and will affect the community. Also, the plan which includes bathrooms, a kitchen and additional finished space does not directly fit in with the utilitarian purpose of an accessory garage meant to store cars, boats and the like. And it's simply not possible to regulate whether or not commercial activities may go on in such a structure whether for the current owner of any future owner. As for its size, all of Harvard Club's garages (as pictured below) don't equal the space that this homeowner is seeking to put on a single family lot. No matter the intention of a homeowner; if the property will have the effect of acting like a commercial building or if a structure being built goes against the intent of the code, then it becomes a nuisance in the community. This is that the code was trying to prevent. The current code is open to a wide interpretation and we ask you please consider taking the steps necessary to have the homeowner modify the plans to adhere to the Village of Fontana's long term goals."

Announcements

1. Lakefront and Harbor Committee Meeting – **Wednesday, July 31, 2013, 5:30 pm**
2. Village Board Monthly Meeting – **Monday, August 5, 2013, 6:00 pm**
3. CDA Monthly Meeting Date – **Wednesday, August 7, 2013, 6:00 pm**
4. Fontana/Walworth Water Pollution Control Commission Meeting – **Tuesday, August 13, 2013, 7:30 pm**
5. GLLEA Monthly Board Meeting – **Wednesday, August 14, 2013, 10:00 am**
6. Plan Commission Staff Meeting – **Wednesday, August 14, 2013, 1:00 pm**

7. 2013 Board of Review – **Thursday, August 15, 2013, 1:00 pm**
8. Finance Committee Meeting – **Thursday, August 15, 2013, 6:00 pm**
9. GLEA Board Meeting – **Thursday, August 15, 2013, 7:00 pm**
10. Protection Committee Meeting – **Monday, August 19, 2013, 6:00 pm**
11. Library Board Meeting – **Wednesday, August 21, 2013, 10:00 am**
12. Park Commission Meeting – **Wednesday, August 21, 2013, 6:00 pm**
13. Plan Commission Monthly Meeting – **Monday, July 29, 2013, 5:30 pm**

Approve Plan Commission Minutes

President Petersen/Commissioner Vilona 2nd made a MOTION to approve the minutes for June 24, 2013, as presented, and the MOTION carried without negative vote.

Joint Session Business

Proposed Amendments to ETZ Zoning Ordinance – Schedule Public Hearing

The proposed amendments to the ETZ Zoning Ordinance were distributed for the meeting. Village Attorney Dale Thorpe stated that staff has met during the last several months on reviewing the ETZ Zoning Ordinance and the current Walworth County Zoning Code. Thorpe stated that proposed amendments and additions to the ETZ Zoning Ordinance were drafted to update the ETZ code and bring it current with the Walworth County zoning code. Thorpe stated that there are also some minor housekeeping amendments being proposed to align the ETZ Code with the recently rewritten Village of Fontana Zoning Code. Village Planner Mike Slavney stated that the county zoning code features a good number of changes since the ETZ code was adopted in 1997, and the intent for the proposed amendments is just to bring the ETZ Code up to date. Town of Walworth representative Jim van Dreser asked if a document could be provided prior to the public hearing that summarizes what is different in the ETZ Code as compared to the Walworth County code, and Thorpe and Slavney stated that a summary document will be drafted.

ETZ Committee Chairman O’Connell/Village of Fontana representative Lobdell 2nd made a MOTION to schedule a public hearing for Monday, August 26, 2013 beginning at 5:30 pm to consider the proposed amendments to the ETZ Zoning Ordinance. The MOTION carried without negative vote.

Commissioner Vilona/Commissioner Lobdell 2nd made a MOTION to schedule a public hearing for Monday, August 26, 2013 beginning at 5:30 pm to consider the proposed amendments to the ETZ Zoning Ordinance. The MOTION carried without negative vote.

Conditional Use Permit Applications

ETZ CUP Application Filed by Maria Klesmith for Proposed Holy Theophany Orthodox Chapel, N2107 Highway 67, Walworth Township – Set Public Hearing

An application was filed by Maria Klesmith, 1081 S. Lakeshore Drive, to authorize the construction of Holy Theophany Orthodox Chapel at N2107 Highway 67, Walworth Township. The site is owned by James and Georgia Athans, Williams Bay. Thorpe stated that a public hearing before the Plan Commission is required for ETZ CUP applications, with input solicited from the Joint ETZ Committee representatives. The staff report states that the proposed church is allowed in the A-1 ETZ District by conditional use permit and the signage and lighting plans comply with the code.

President Petersen/Commissioner Nikolai 2nd made a MOTION to schedule a public hearing for Monday, August 26, 2013 beginning at 5:30 pm, and the MOTION carried without negative vote.

ETZ CUP Amendment Application Filed by Tim Wichman/Faulk & Foster for US Cellular to Add Antenna to Existing Tower on Stewart Property, 202 W. Main Street

An application to amend the conditional use permit issued for the existing tower on the Robert Stewart property at 202 W. Main Street was filed by Tim Wichman/Faulk & Foster for US Cellular to authorize the proposed addition of an antenna. The tower is located in Walworth Township. Thorpe stated that a public hearing before the Plan Commission is required for ETZ CUP amendment

applications, with input solicited from the Joint ETZ Committee representatives. The staff report indicates that there are no concerns with the proposal as long as the applicant and property owner continue to meet all the zoning requirements of the AH-35 Zoning District.

President Petersen/Commissioner Vilona 2nd made a MOTION to schedule a public hearing for Monday, August 26, 2013 beginning at 5:30 pm, and the MOTION carried without negative vote.

Adjournment ETZ Committee

Town of Walworth representative Ken Magowan/ Town of Walworth representative Jim van Dreser 2nd made a MOTION to adjourn the ETZ Committee meeting at 5:42 pm, and the MOTION carried without negative vote.

Public Hearing

Plan Development Zoning Amendment Application Filed by Abbey Springs, Inc., for Proposed Exchange of Approved Mooring Spaces

Spadoni opened the public hearing at 5:42 pm. Abbey Springs Executive Director Jerry Mortier stated that a pier replacement project on the lakefront necessitated the application to amend the Planned Development Zoning Ordinance. Mortier stated that by making the pier slips wider, there will be a loss of four individual boat slips, which the Abbey Springs would like exchanged for buoys. Thorpe stated that the total number of boat moorings will remain the same; however, the exact numbers are spelled out in the ordinance, so an amendment is necessary. Trustee Pappas asked if the application concerns the number of dingy docks authorized at the lakefront, and Thorpe responded that it does not and if the Abbey Springs wants to address the 24 dingy docks that are authorized in the Abbey Springs ordinance another application would have to be filed. Thorpe stated that when the Abbey Springs PD ordinance is amended to authorize the exchange of pier slips for buoys, a better definition of “dingy docks” and a clarification of their use will be presented for consideration; however, the total number cannot be changed without an application being filed and approved. Pappas stated that he favors the proposal to authorize the exchange of the slips for buoys. The Lakefront and Harbor Committee also approved a motion to recommend approval of the pier renovation plan and the exchange of four boat slips for four buoys. Spadoni closed the public hearing at 5:46 pm.

Plan Commission Business

Recommendation on Plan Development Zoning Amendment Application Filed by Abbey Springs, Inc., for Proposed Exchange of Approved Mooring Spaces

Commissioner O’Connell/President Petersen 2nd made a MOTION to recommend Village Board approval of the Abbey Springs Planned Development Zoning Ordinance amendment to authorize the exchange of four boat slips for four moorings, making the totals in the ordinance 84 boat slips and 18 buoys. The MOTION carried without negative vote.

Recommendation on Plan Development Zoning Amendment Application Filed by Abbey Springs, Inc., for Proposed Reconstruction of Two Accessory Buildings on Golf Course

Mortier stated that the application was filed to authorize the reconstruction of two accessory buildings on the golf course that were constructed in about 1973 and are currently in bad shape. The new buildings are for turf care/golf cart storage, and for condominium maintenance storage. Zoning Administrator Ron Nyman reported that the proposed buildings adhere to the applicable construction and zoning requirements and the average impervious surface will decrease with the new buildings. Village Engineer Joe Eberle has some concerns that are listed in the distributed July 11, 2013 letter that must be satisfactorily addressed and approved by staff before a Building Permit is issued. Nyman stated that most of the concerns listed by Eberle are not relevant as a proposed new golf cart service station at the turf care/golf cart storage building is self-contained and it will not be connected to the storm sewer system. Nyman stated that the other information being sought by Eberle is typically not submitted, reviewed and approved until state approved plans are filed with the

Building Permit applications. Nyman stated that the Building Permit approval process will address all the relevant concerns listed in the engineering report. Nyman stated that the self-contained ESD Waste2Water System collects and stores all the fluid and runoff water from the padded site. Thorpe stated that the new system will be a dramatic improvement from what is currently in place at the golf course. O'Connell stated that she is opposed to voting to recommend approval of the proposal until all of the village engineer report items have been resolved and approved state plans have been submitted and reviewed. O'Connell stated that she does not have a concern with the new condo maintenance building; however, the operation and maintenance plans for the golf cart storage building, with gas and fertilizer liquids present, need to be reviewed and approved very cautiously. The project engineers submitted to the Village on July 18, 2013 the ESD Waste2Water system operation and owners' manual, which outlines all the installation, operational and maintenance procedures that are used on the system at golf courses throughout the United States; the ESD Waste2Water system Product Composition and operations flow chart diagram, which outlines the chemical containment and recovery system operations; and the ESD Waste2Water system EPA regulations documentation that outlines the approved point source discharge procedures. All the information was distributed with the meeting packets. Nyman stated that the Village does not require the filing of costly state approved construction plans until after proposals have been approved by the Village and the Building Permit process has commenced.

President Petersen/Commissioner Nickolai 2nd made a MOTION to recommend Village Board approval of the Plan Development Zoning Ordinance amendment application as filed by Abbey Springs, Inc., for the reconstruction of two accessory buildings on the golf course. The MOTION carried on a 5-1 vote, with Commissioner O'Connell opposed and Commissioner Frazier absent.

Village Board Request to Review Previous Information on “McMansion” Zoning Ordinances

Spadoni stated that the issuance of a Building Permit for an approved 28-stall garage on a lakefront residential lot led the Village Board to direct staff to review the Lakefront Residential Zoning District standards for garages. Spadoni stated that when the new code was drafted and adopted, the Village Board members did not realize there was a possibility for a garage that big. Spadoni stated that staff should limit its review of the previously rejected “McMansion” ordinance regulations to the large lakefront parcels that are currently open for the development of very large garages. Thorpe stated that the redistributed research documents on “McMansion” regulations include parameters that would address accessory buildings, including garages. Spadoni stated that the Village should not infringe on property owners current rights to construct large residential homes on lakefront lots, but large garages should be controlled. O'Connell stated that the Plan Commission supported the “McMansion” regulations the first two times they were presented, and because they were not adopted by the Village Board, there have been some very large houses constructed in the lakefront subdivisions. Thorpe stated the staff drafted a proposed zoning code section during the two-year process to rewrite Chapters 17 and 18 that called for the lakefront residential district to be considered completely developed. Thorpe stated that the Village Board directed that the proposal be taken out of the rewritten Zoning Code before it was approved in September 2012. Thorpe stated that the lakefront residential development that was discussed at the last Village Board monthly meeting is an example of a plan being taken to the limits of the current zoning code. Assistant Zoning Administrator Bridget McCarthy stated that the specific residential building plan that has been discussed by the Village Board and again that night by the Plan Commission was issued a Building Permit because it adheres to all the applicable standards of the Zoning Code, and the proposal has not even been taken to the limits of the code standards – the new home and accessory building both could be larger and still meet the standards. Under the old Zoning Code that was just rewritten, the height of the residence and accessory building were the only items that could have required CUP approval; however, the rest of the code standards would have been met in both the old and new Zoning Codes. McCarthy stated that the Zoning Code does not have maximum sizes for a principal structure or for accessory structures; just setback and impervious surface ratios that must be met.

McCarthy stated that if a lot is large enough to meet the setback and impervious surface requirements, the size of the buildings are only restricted by the height limitation standards. Following further discussion, Spadoni stated that Plan Commission should only review at this time the existing large lakefront lots and propose reasonable total size limitations for garages. Trustee Pappas stated that the Plan Commission members may also want to review the methods in which building height is measured in the new Zoning Code. The building height measurement method was not changed in the initial draft of the rewritten Zoning Code, but staff incorporated a second method at the direction of the Village Board. Pappas stated that the second method available in the new code for measuring the height of a building allows some property owners to construct taller buildings than what other property owners were allowed to construct in the past.

President Petersen/Commissioner Vilona 2nd made a MOTION to direct staff to pull out of the information from the previous “McMansion” regulations research documents the zoning standards used for accessory buildings and to circulate the information to staff and the Plan Commission members to review prior to the next monthly meeting. The MOTION carried without negative vote.

Village Board Directive to Amend Commercial Building Code to Allow Temporary Canopies

Thorpe stated that the Village Board approved a motion to allow a temporary “sunshade” or canopy to be erected on the Gordy’s Boathouse lakefront property, and directed staff to draft a zoning code amendment to authorize the use of temporary canopies on commercial “shoreyard” lots. The motion made by Trustee Spadoni and seconded by Trustee Kenny that was unanimously approved at the July 1, 2013 Village Board meeting was “to direct Village staff to immediately start the process of amending the zoning code so as to allow for sunshades to be erected as attachments to structures in the shoreyard, subject to a size limitation of 150 square feet and with the conditions that such sunshades are in support of a principle commercial use, and that such sunshades are seasonal in use and dismantled at the end of the season, and with such other conditions that the Village may consider; and to direct staff to forego zoning code enforcement as to such a use during this summer while a code change is being considered and voted on.” Thorpe stated that staff will draft the amendment language and present it to the Plan Commission for review and a recommendation. O’Connell stated that she does not support the proposed amendment as there are too many flags flying and canopies erected at the lakefront and people cannot even see the lake with all the items blocking the view.

Update on Resort Rentals Listings and Room Tax Requirement

Hayden stated that at the last Plan Commission staff meeting, the issues of illegal short-term residential rentals and village room tax requirements were discussed. Hayden stated that there are websites that list “Resort Rentals” for short-term periods, and some local property owners with parcels that are not zoned to allow for short-term rentals have advertised their property on the sites. Hayden stated that there are also some property owners who have residential units that are zoned for short-term rentals and they are being advertised on the websites, but the property owners are not paying the Village the required room taxes. McCarthy stated that the two situations have been made more difficult for Village enforcement in the last year when the State of Wisconsin eliminated a requirement that the state issued permits for residential rental properties required a local building inspection. McCarthy stated that the local inspection is no longer required, so state employees no longer contact the Building and Zoning Department when a property owner applies for the state required permit. McCarthy stated that unless a complaint is received, staff has no way of knowing if a property owner is renting their residence on a short-term basis contrary to the Zoning Code, or if a property owner is renting their unit in an allowable Zoning District but is not paying the required Village room tax. Hayden stated that staff just wanted to update the Plan Commission members on the situation and inform them that Thorpe will be drafting a template for letters that can be issued to property owners by the Building and Zoning Department when they receive a complaint or become aware of website advertisements for short-term rental residences in the village that are not allowed because of Zoning Code restrictions, or that have not registered or paid the required Room Tax.

Adjournment Plan Commission

President Petersen/Commissioner Lobdell 2nd made a MOTION to adjourn the meeting at 6:26 pm, and the MOTION carried without negative vote.

Minutes prepared by: Dennis L. Martin, Village Clerk

Note: These minutes are subject to further editing. Once approved by the Plan Commission and Joint ETZ Committee, the official minutes will be on file at the Village Hall.

APPROVED: 8/26/2013 – Plan Comm. & Jt. ETZ Committee